

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

-----X
DIONNE LEE

Plaintiff

RICHARD K. BAWUAH and
COWAN EQUIPMENT LEASING

Civil Action No. 07-cv-9917

**CERTIFICATION OF
COUNSEL**

Defendants

-----X

Jeffrey A. Segal, Esquire, an attorney duly admitted to practice law before the applicable Courts of the State of New York, hereby affirms the truth of the following, under the penalties of perjury:

1. I, Jeffrey A. Segal, am a partner of Rawle & Henderson LLP, attorneys for the defendants, Richard K. Bawuah and Cowan Equipment Leasing, and as such I am fully familiar with the facts and circumstances herein.

2. This action arises out of a motor vehicle accident that occurred on the New Jersey side of the eastbound, upper level of the George Washington Bridge, at approximately 12:40 a.m. on Monday, May 9, 2007. (see Port Authority of New York & New Jersey Motor Vehicle Accident Report, attached as Exhibit "A").

3. Lee is a resident of New York and was driving a passenger vehicle that was reportedly registered in New York. (See Exhibit "A").

4. Defendant Bawuah is a resident of Connecticut and was driving a tractor registered in Connecticut (See Exhibit "A").

5 Defendant Cowan Equipment Leasing, LLC is a Maryland limited liability corporation with its principle place of business in Baltimore Maryland. Cowan also maintains a business location in New Jersey.

6. Moreover, during the time of the accident, Bawuah's typical route was from Connecticut to Monroe Township, NJ where he would pick up a load and deliver it to locations in Connecticut or Massachusetts. (Bawuah's Deposition Transcript, pg. 11, lines 9-17, attached hereto as Exhibit "B").

7. On the date of the accident, Bawuah was operating the tractor trailer in the course and scope of his employment with Cowan, and was in fact performing a typical run from Monroe, NJ to a site in Massachusetts. (Bawuah's Deposition Transcript, pg. 16, lines 5-20, attached hereto as Exhibit "C").

8. At the time of the accident, Lee was in the process of commuting home from her job as a Sales Associate for H&M in the Palisades Mall in New Jersey. (Lee's Deposition Transcript, pg. 19, line 22 to pg 20 line 16, attached hereto as Exhibit "D").

9. Lee had held the full-time job at H&M for eight months prior to the accident. Therefore, she regularly commuted to and from New Jersey. (Lee's Deposition Transcript, pg. 21 line 21 to pg. 22, line 3, attached hereto as Exhibit "D").

10. New Jersey, the situs of the accident, has paramount interest that its substantive laws concerning both the rules of the road and loss allocation, apply to this lawsuit because Defendant Cowan Equipment Leasing, LLC maintained a business location in New Jersey and Bawuah, in the course and scope of his employment with Cowan was performing his daily run from New Jersey to locations in southern New England, when the accident occurred on the New Jersey side of the George Washington

Bridge. In addition, plaintiff was in the process of performing her daily commute home to New York from her job located in New Jersey.

11. Therefore, defendants herein request an Order Applying New Jersey's Substantive Law and Instructing the Jury on New Jersey's Modified Comparative Fault analysis pursuant to N.J.S.A. 2A:15-5.1.

12. In the event that this motion is granted, counsel for Defendants will work with Plaintiff's counsel on preparing revised joint jury instructions and a revised verdict sheet incorporating New Jersey's Modified Comparative Fault Statute, N.J.S.A. 2A:15-5.1.

RAWLE & HENDERSON LLP

By: 

Jeffrey A. Segal
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Richard K. Bawuah and Cowen
Equipment Leasing
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(212) 858-7570
File No.: 801840

Date: July 10, 2008

EXHIBIT A

PA 8215/0-02

03119

FACILITY: LWB NJ ☒ NY ☐ PAGE NO. 1 OF 1THE PORT AUTHORITY OF NY & NJ
MOTOR VEHICLE ACCIDENT REPORT

TE REF. NO. ACCIDENT DATE (MM/YY) DATE REPORTED (MM/YY)

GRD NO.

TIME (24 HOUR)

PA. PRIOR DAMG.

☐ Yes
☒ No

Officer's Name

McKEON

Officer's P.A. Employee No.

42726MAINTENANCE
WORK ORDER NO.

Officer's Signature

[Signature]MVA CN 720-07Did You Witness Accident? ☐ Yes
☒ No

VEHICLE 1

Driver Name (exactly as printed on license)

BRAWN Richard K

Address (include Number and Street)

147 Mallard DR

City or Town

E. Hartford

State

CT

Zip Code

06118

Driver's License Number

156 473363CDL ☐ Yes
☒ No

Date of Birth

3/1/44

Sex

M

Unlicensed

-

No. of Occup.

1

Public Property Damaged

☐ Yes
☒ No

State of Lic.

CT

Owner Name (exactly as printed on registration)

Cowan Equipment Leasing

Address (include Number and Street)

776 North Main St.

City or Town

Manchester

State

CT

Zip Code

06040

License Plate No.

4190SA

State

CT

Vehicle Year & Make

07 volw

Vehicle Model

L64T

Ins. Code

VIN No.

4U4NLC96627N44721

Insurance Carrier

Cowan Systems LLC

Summons/Arrest No.

Insurance Expiration Date

1/10/07

Policy Number

TRK 913740700

Violations

VEHICLE 2

Driver Name (exactly as printed on license)

LEE Dionne L

Address (include Number and Street)

123 E 129 ST

City or Town

New York

State

NY

Zip Code

10035

Driver's License Number

585 291 938CDL ☐ Yes
☒ No

Date of Birth

11/29/64

Sex

F

Unlicensed

-

No. of Occup.

1

Public Property Damaged

☐ Yes
☒ No

State of Lic.

NY

Owner Name (exactly as printed on registration)

S.A.A.

Address (include Number and Street)

City or Town

State

Zip Code

License Plate No.

CU68308

State

NY

Vehicle Year & Make

01 Merc

Vehicle Model

4DSD

Ins. Code

100

VIN No.

IMEFMSS5016608506

Insurance Carrier

GEICO Indemnity

Summons/Arrest No.

Insurance Expiration Date

Policy Number

1245137607

Violations

Towed by: _____ Towed To: _____

Towing Authorized by: _____

Towed by: _____ Towed To: _____

Towing Authorized by: _____

FOR PORT AUTHORITY VEHICLES ONLY:

PA. Vehicle No.

Driver Unit:

PA. Employee No.

PA. Vehicle No.

Driver Unit:

PA. Employee No.

Full Name and Address of Injured

N/A

Nature of Injuries

Medical Attention

☐ Refused Medical Attention☐ Will See Own Doctor

Treated By

First Aid By

Taken To

Hospital By

COLLISION SYMBOLS

Rear End

Overtaking

Backing

Angle Collision

Fixed Object

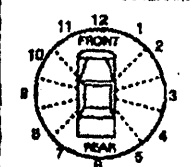
Right Turn

Head On

Sideswipe

Left Turn

CLOCKPOINT DIAGRAM



13 ROOF
14 UNDERCARRIAGE
15 OVERTURNED
16 TOTALLED
17 NONE 18 OTHER

AREAS DAMAGED
INITIAL PRINCIPAL IMPACT

VEH. 1 2 2
VEH. 2 8 7

ACCIDENT DIAGRAM



Indicate North

COMMERCIAL CARRIER NAME

VEHICLE WEIGHT

ACCIDENT DESCRIPTION

AT 1/16 Driver of veh #1
 State while in lane driver of veh #2
 tried to merge into his lane causing damage to right side of Driver #1's
 vehicle. Driver #2 states Driver #1 was in his lane and drifted into
 her causing damage to veh #2.

ICC CARRIER NO.

V1

V1

V2

V2



	37	38	39	40	41	FULL NAMES AND ADDRESSES OF PASSENGERS
A	1	62	M	1	03	
B	2	4L	F	1	03	
C						
D						

EXHIBIT B

22 A No.
 23 Q Meaning if you have to go -- do they give
 24 you assignments to go from the east coast to the
 25 west coast?

11

1 RICHARD K. BAWUAH
 2 A That was past. I don't do that anymore.
 3 No.
 4 Q Then you drive -- why do you say you don't
 5 do that anymore?
 6 A I used to do, yeah. Long time ago.
 7 Q Long distance driving?
 8 A Long time ago. Not this company.
 9 Q Okay. What route do you generally travel
 10 as far as your driving is concerned?
 11 A Now?
 12 Q Yes.
 13 MR. SEGAL: Objection to the form. You
 14 can answer if you can.
 15 A From Connecticut to New Jersey at Monroe
 16 Township, pick up a load, come back to Connecticut
 17 or Massachusetts and I will be done.
 18 Q What is the make and model of the vehicle
 19 that you drive?
 20 MR. SEGAL: I'll object. On the date of
 21 the accident?
 22 MR. ROUSE: On the day of the accident.
 23 A Volvo. I don't know the year but it's a
 24 new type Volvo truck.
 25 Q How long is the vehicle?

12

1 RICHARD K. BAWUAH
 2 First of all, does the vehicle --
 3 MR. SEGAL: I'll object to the use of the
 4 term tractor and trailer, separately or
 5 together.
 6 Q That's what I was going to do.
 7 The tractor, is that -- the vehicle
 8 is a tractor and trailer, is that correct?
 9 A Yes.
 10 Q How long is the vehicle as far as the
 11 tractor and trailer together that you were driving
 12 that day?
 13 A How long?
 14 Q How long.
 15 A The trailer is 53-foot.
 16 Q 53 feet?
 17 A Yeah.
 18 Q And the cab is? How big is the cab?
 19 Excuse me, the tractor.
 20 MR. SEGAL: I'm instructing the witness
 21 not to guess. If you can approximate, answer

EXHIBIT C

22 MR. SEGAL: Object to the form. You can
23 answer.
24 A Ten hours.
25 Q And generally what lane do you drive in

15

1 RICHARD K. BAWUAH
2 when you drive the truck, the tractor and the
3 trailer?
4 MR. SEGAL: I will object to the form.
5 You can answer if you can.
6 You can answer if you can.
7 A Tractor-trailer, you don't have to drive
8 on the fast lane, you only have to drive on the slow
9 and the travel lane. That's the tractor-trailer
10 everywhere.
11 Q That would be the right lane you drive in?
12 MR. SEGAL: Objection to form.
13 A The right lane is slow lane, and the
14 middle one is travel lane, but before the fast lane
15 comes on the left.
16 Q On the day of the accident, how was the
17 weather outside?
18 A Dry.
19 Q It was nighttime, correct?
20 A Yes.
21 Q From what location did you begin that
22 trip?
23 A Beginning or just --
24 Q Before you answer that question, one other
25 question.

16

1 RICHARD K. BAWUAH
2 Approximately what time did the
3 accident happen?
4 A 12:40. Somewhere. Midnight.
5 Q Where were you coming from?
6 A I was coming from New Jersey. Monroe
7 Township, New Jersey.
8 Q What time did you start driving that day?
9 A I started from Connecticut. Yeah, I
10 started at 6:30.
11 Q In the morning?
12 A No, in the evening.
13 Q Okay. And where were you going to?
14 A I first delivered a beer load.
15 MR. SEGAL: Just answer his question.
16 A Where I was going to? When I was going or
17 when I was coming?
18 Q When you were leaving New Jersey, where
19 were you going to?
20 A Okay. From Monroe to Massachusetts.
21 Q You're leaving Monroe. What route did you

EXHIBIT D

<p style="text-align: right;">18</p> <p>1 DIONNE LEE</p> <p>2 follow up in writing for counsel.</p> <p>3</p> <p>4 **REQUEST FOR INFORMATION**</p> <p>5</p> <p>6 **REQUEST FOR INFORMATION**</p> <p>7</p> <p>8 (Off the Record)</p> <p>9 Q The Mercury Sable that you own, was that</p> <p>10 Mercury Sable a vehicle that you drove on a regular</p> <p>11 basis?</p> <p>12 A Yes.</p> <p>13 Q Were you responsible for its maintenance?</p> <p>14 A Yes.</p> <p>15 Q As far as you know, on May 9, 2007 was</p> <p>16 your vehicle in fine working order?</p> <p>17 A Yes.</p> <p>18 Q Brakes were fine?</p> <p>19 A Yes.</p> <p>20 Q Horn worked?</p> <p>21 A Yes.</p> <p>22 Q All the lights worked?</p> <p>23 A Yes.</p> <p>24 Q Steering was fine?</p> <p>25 A Yes.</p>	<p style="text-align: right;">20</p> <p>1 DIONNE LEE</p> <p>2 were you coming from?</p> <p>3 A The Palisades Mall.</p> <p>4 Q Do you recall about what time you left the</p> <p>5 mall?</p> <p>6 A About 11:00, 11:30, something like that.</p> <p>7 Q What were you doing at the mall at about</p> <p>8 that time?</p> <p>9 A I worked at the mall.</p> <p>10 Q At what particular store did you work?</p> <p>11 A H&M.</p> <p>12 Q What type of store is that?</p> <p>13 A It's a clothing store.</p> <p>14 Q For how long had you worked at H&M before</p> <p>15 May of 2007?</p> <p>16 A Approximately eight months.</p> <p>17 Q Other than the job at H&M in or about May</p> <p>18 of 2007, did you have any other job from which you</p> <p>19 earned money? So I don't mean charity work, I mean</p> <p>20 did you have more than one job?</p> <p>21 A No.</p> <p>22 Q Bear with me for one second. I apologize.</p> <p>23 How were you paid at H&M? Were you</p> <p>24 paid hourly, were you paid weekly?</p> <p>25 A Biweekly.</p>
<p style="text-align: right;">19</p> <p>1 DIONNE LEE</p> <p>2 Q And there was no physical damage other</p> <p>3 than what we already spoke about to the front</p> <p>4 bumper?</p> <p>5 A That I know, yes.</p> <p>6 Q We already agree that the accident</p> <p>7 occurred on May 9, 2007, correct?</p> <p>8 A Yes.</p> <p>9 Q Do you recall what day of the week that</p> <p>10 was?</p> <p>11 A No.</p> <p>12 Q Do you recall whether it was a weekday or</p> <p>13 a weekend?</p> <p>14 A I don't recall.</p> <p>15 Q Do you recall approximately what time the</p> <p>16 accident occurred?</p> <p>17 A Approximately 12:30, 12:40.</p> <p>18 Q Would that be after midnight, so a.m.?</p> <p>19 A Yes.</p> <p>20 Q Where specifically did the accident occur?</p> <p>21 A On the George Washington Bridge.</p> <p>22 Q Would it be going from New Jersey to New</p> <p>23 York or from New York to New Jersey?</p> <p>24 A I was coming to New York.</p> <p>25 Q Where had you just left, meaning where</p>	<p style="text-align: right;">21</p> <p>1 DIONNE LEE</p> <p>2 Q Were you paid a set amount or by the hour?</p> <p>3 A By the hour.</p> <p>4 Q How much did you make in or about April of</p> <p>5 2007 per hour?</p> <p>6 A \$10.25 an hour.</p> <p>7 Q What was your job position?</p> <p>8 A Sales associate.</p> <p>9 Q And had you been a sales associate for the</p> <p>10 approximate eight months you had worked there?</p> <p>11 A Yes.</p> <p>12 Q Did you have an immediate supervisor?</p> <p>13 A Yes.</p> <p>14 Q Who was your supervisor?</p> <p>15 A It's a couple.</p> <p>16 Q Who was the one that you normally reported</p> <p>17 to if there was a problem, you got your schedule</p> <p>18 from, things like that?</p> <p>19 A It's many. It's whatever manager is on</p> <p>20 duty that day.</p> <p>21 Q Approximately how many hours a week did</p> <p>22 you work?</p> <p>23 A Forty.</p> <p>24 Q And had it always been approximately 40</p> <p>25 hours a week for the entire eight months you worked</p>

6 (Pages 18 to 21)

<p style="text-align: right;">22</p> <p>1 DIONNE LEE</p> <p>2 there? Or did you start off working more or less?</p> <p>3 A I think it was about 40.</p> <p>4 Q What particular days of the week did you</p> <p>5 work? Monday through Friday? Weekends?</p> <p>6 A It varies.</p> <p>7 Q Were you employed in any capacity before</p> <p>8 getting the job at H&M?</p> <p>9 A Excuse me. Can you rephrase that</p> <p>10 question?</p> <p>11 Q Did you work at all before you started at</p> <p>12 H&M?</p> <p>13 A Yes, I worked before.</p> <p>14 Q What was the job directly prior to you</p> <p>15 starting at H&M?</p> <p>16 A I think that was 311.</p> <p>17 Q Is that the name of it?</p> <p>18 A Yeah. It's called 311, but it's also</p> <p>19 called Department of Information Telecommunications</p> <p>20 and Technology, or Technology and</p> <p>21 Telecommunications. One of the two.</p> <p>22 Q Is that a department of New York State?</p> <p>23 A Yes. Or you can abbreviate it.</p> <p>24 Q What was your job title there?</p> <p>25 A I was a call representative.</p>	<p style="text-align: right;">24</p> <p>1 DIONNE LEE</p> <p>2 And how long were you unemployed for,</p> <p>3 approximately?</p> <p>4 A Approximately, I think, a year.</p> <p>5 Q And while you were employed at 311, did</p> <p>6 you have any other job or just the one job?</p> <p>7 A Just the one.</p> <p>8 I'm sorry. When I first started 311</p> <p>9 I was working at Pathmark. So it overlapped a</p> <p>10 little bit.</p> <p>11 Q What did you do there?</p> <p>12 A I was a cashier.</p> <p>13 Q How many hours a week did you work at 311?</p> <p>14 A Forty hours, majority of the time.</p> <p>15 Q And how long -- strike that.</p> <p>16 How many hours a week did you work</p> <p>17 when you were at Pathmark during the overlap period?</p> <p>18 A Forty hours.</p> <p>19 Q So you worked both jobs full-time?</p> <p>20 A Well, when I started -- when I was working</p> <p>21 with Pathmark, 311 was just training. I was just</p> <p>22 training, so it wasn't.</p> <p>23 Q Was there ever a period of time when you</p> <p>24 worked both jobs, or once you were through training</p> <p>25 did you leave Pathmark and just work at 311?</p>
<p style="text-align: right;">23</p> <p>1 DIONNE LEE</p> <p>2 Q For how long did you work there?</p> <p>3 A Approximately two years.</p> <p>4 Q Why did you leave there?</p> <p>5 A They let me go.</p> <p>6 Q Was it because of a disciplinary issue or</p> <p>7 because they cut staff?</p> <p>8 A I'm not sure. I didn't ask, to be honest.</p> <p>9 Q So you don't know why you were let go?</p> <p>10 A No.</p> <p>11 Q So then if I understand, you worked at 311</p> <p>12 for roughly between 2005 and 2007, or was it more</p> <p>13 2004 -- I'm sorry, 2004 to 2006, and then you</p> <p>14 started H&M in 2006?</p> <p>15 A I'm not sure, because I had a break in</p> <p>16 between. So I didn't go straight into. So I think</p> <p>17 it was 2004, 2005 -- I mean 2003, 2005. I'm not</p> <p>18 sure.</p> <p>19 Q That's all right.</p> <p>20 Your break, were you unemployed</p> <p>21 during the break?</p> <p>22 A I was collecting unemployment.</p> <p>23 Q All right. Were you unemployed?</p> <p>24 A Yes. I'm sorry.</p> <p>25 Q That's all right.</p>	<p style="text-align: right;">25</p> <p>1 DIONNE LEE</p> <p>2 A Yes.</p> <p>3 (Brief Recess Taken)</p> <p>4 Q Why did you leave your job at Pathmark?</p> <p>5 A When I started work at H&M, it was</p> <p>6 miscommunication. They thought I quit.</p> <p>7 Q Wait. You said you went from Pathmark to</p> <p>8 311.</p> <p>9 A Yeah.</p> <p>10 Q Not H&M?</p> <p>11 A 311. I'm sorry.</p> <p>12 Q That's okay.</p> <p>13 Your job at H&M as a sales associate,</p> <p>14 can you describe for me in simple terms what do you</p> <p>15 do? What are your job duties?</p> <p>16 A My job duty is stocking the clothes back</p> <p>17 on racks. Ringing up customers. Helping customers.</p> <p>18 Changing displays. Changing mannequins.</p> <p>19 Rearranging the -- the department if I have to. I'm</p> <p>20 a responsible, so I'm responsible for my department</p> <p>21 to make sure it's in standard.</p> <p>22 Q What is your department? What was your</p> <p>23 department?</p> <p>24 A I have the children's department.</p> <p>25 Q With respect to working, was there more</p>